

UNITED STATES DISTRICT COURT  
District of MassachusettsUNITED STATES OF AMERICA  
v.

COREY SMITH

## AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 1: 04 CR 10111 - 003 - MEL

USM Number: 25189-038

Jonathan Shapiro

Defendant's Attorney

04/19/05 Date of Original Judgment

 Additional documents attached Correction of Sentence on Remand (Fed. R. Crim. P. 35(a))

## THE DEFENDANT:

 pleaded guilty to count(s) 2s,3s,4s,7s,8s,9s,10s pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court. was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Additional Counts - See continuation page 

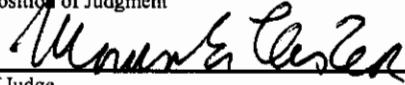
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 USC § 841(a)(1)	Distribution of Cocaine Base	10/02/03	2s
18 USC § 2	Aiding and Abetting		
21 USC § 841(a)(1)	Distribution of Cocaine Base	10/07/03	3s
21 USC § 860	School Zone Violation		
18 USC § 2	Aiding and Abetting		

The defendant is sentenced as provided in pages 2 through 11 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. The defendant has been found not guilty on count(s) \_\_\_\_\_ Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

10/19/06

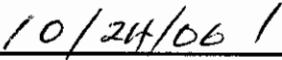
Date of Imposition of Judgment



Signature of Judge

The Honorable Morris E. Lasker  
Senior Judge, U.S. District Court

Name and Title of Judge



Date

DEFENDANT: **COREY SMITH**CASE NUMBER: **1: 04 CR 10111 - 003- MEL**Judgment—Page 2 of 11**ADDITIONAL COUNTS OF CONVICTION**

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 USC § 841(a)(1)	Distribution of Cocaine Base	10/09/03	4s
21 USC § 860	School Zone Violation		
21 USC § 841(a)(1)	Distribution of Cocaine Base	11/03/03	7s
21 USC § 860	School Zone Violation		
18 USC § 2	Aiding and Abetting		
21 USC § 846	Conspiracy to Distribute of Cocaine Base	11/20/03	8s
21 USC § 841(a)(1)	Distribution of Cocaine Base	11/20/03	9s
21 USC § 860	Playground Zone Violation		
21 USC § 841(a)(1)	Conspiracy to Distribute of Cocaine Base	11/22/03	10s
21 USC § 860	School Zone Violation		
18 USC § 2	Aiding and Abetting		

DEFENDANT: **COREY SMITH**CASE NUMBER: **1: 04 CR 10111 - 003 - MEL****IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **60 month(s)**

On each count to be served concurrently.

That the defendant is to be credited with time served from 01/03/05 thru 02/07/05, Also 02/08/05 thru 10/19/06

The court makes the following recommendations to the Bureau of Prisons:

That the defendant participate in the 500 Hour Comprehensive Drug Treatment Program

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on \_\_\_\_\_.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **COREY SMITH**CASE NUMBER: **1: 04 CR 10111 - 003 - MEL****SUPERVISED RELEASE** See continuation pageUpon release from imprisonment, the defendant shall be on supervised release for a term of : **6** year(s)

This term consists of terms of 6 years on each Count, all such terms to run concurrently

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed 104 tests per year, as directed by the probation officer.

The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)

The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)

The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **COREY SMITH**Judgment—Page 5 of 11CASE NUMBER: **1: 04 CR 10111 - 003 - MEL****ADDITIONAL  SUPERVISED RELEASE  PROBATION TERMS**

The defendant is to participate in a program for substance abuse treatment as directed by the United States Probation Office, which program may include testing, not to exceed 104 drug tests per year, to determine whether the defendant has reverted to the use of alcohol or drugs. The defendant shall be required to contribute to the costs of services for such treatment based on the ability to pay or availability of third-party payment.

**Continuation of Conditions of  Supervised Release  Probation**

DEFENDANT: **COREY SMITH**CASE NUMBER: **1: 04 CR 10111 - 003 - MEL****CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

<b>TOTALS</b>	<u><b>Assessment</b></u>	<u><b>Fine</b></u>	<u><b>Restitution</b></u>
	\$ <u><b>\$700.00</b></u>	\$	\$

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u><b>Name of Payee</b></u>	<u><b>Total Loss*</b></u>	<u><b>Restitution Ordered</b></u>	<u><b>Priority or Percentage</b></u>
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<b>TOTALS</b>	\$ <u><b>\$0.00</b></u>	\$ <u><b>\$0.00</b></u>
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See Continuation Page

Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: **COREY SMITH**Judgment — Page 7 of 11CASE NUMBER: **1: 04 CR 10111 - 003 - MEL****SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

**A**  Lump sum payment of \$ \$700.00 due immediately, balance due

not later than \_\_\_\_\_, or  
 in accordance  C,  D,  E, or  F below; or

**B**  Payment to begin immediately (may be combined with  C,  D, or  F below); or

**C**  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or

**D**  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

**E**  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

**F**  Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

See Continuation Page

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

DEFENDANT: **COREY SMITH**  
CASE NUMBER: **1: 04 CR 10111 - 003 - MEL**  
DISTRICT: **MASSACHUSETTS**

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## **STATEMENT OF REASONS**

### **I COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT**

A  **The court adopts the presentence investigation report without change.**

B  **The court adopts the presentence investigation report with the following changes.**

(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report, if applicable.)  
(Use Section VIII if necessary.)

1  **Chapter Two of the U.S.S.G. Manual** determinations by court (including changes to base offense level, or specific offense characteristics):

2  **Chapter Three of the U.S.S.G. Manual** determinations by court (including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):

3  **Chapter Four of the U.S.S.G. Manual** determinations by court (including changes to criminal history category or scores, career offender, or criminal livelihood determinations):

4  **Additional Comments or Findings** (including comments or factual findings concerning certain information in the presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions):

C  **The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.**

### **II COURT FINDING ON MANDATORY MINIMUM SENTENCE (Check all that apply.)**

A  No count of conviction carries a mandatory minimum sentence.

B  Mandatory minimum sentence imposed.

C  One or more counts of conviction alleged in the indictment carry a mandatory minimum term of imprisonment, but the sentence imposed is below a mandatory minimum term because the court has determined that the mandatory minimum does not apply based on

- findings of fact in this case
- substantial assistance (18 U.S.C. § 3553(e))
- the statutory safety valve (18 U.S.C. § 3553(f))

### **III COURT DETERMINATION OF ADVISORY GUIDELINE RANGE (BEFORE DEPARTURES):**

Total Offense Level: **25**

Criminal History Category: **V**

Imprisonment Range: **100** to **125** months

Supervised Release Range: **to 6** years

Fine Range: **\$ 10,000** to **\$ 22,000,000**

Fine waived or below the guideline range because of inability to pay.

DEFENDANT: **COREY SMITH**

CASE NUMBER: **1: 04 CR 10111 - 003 - MEL**

DISTRICT: **MASSACHUSETTS**

## STATEMENT OF REASONS

### IV ADVISORY GUIDELINE SENTENCING DETERMINATION (Check only one.)

- A  The sentence is within an advisory guideline range that is not greater than 24 months, and the court finds no reason to depart.
- B  The sentence is within an advisory guideline range that is greater than 24 months, and the specific sentence is imposed for these reasons. (Use Section VIII if necessary.)
- C  The court departs from the advisory guideline range for reasons authorized by the sentencing guidelines manual. (Also complete Section V.)
- D  The court imposed a sentence outside the advisory sentencing guideline system. (Also complete Section VI.)

### V DEPARTURES AUTHORIZED BY THE ADVISORY SENTENCING GUIDELINES (If applicable.)

#### A The sentence imposed departs (Check only one.):

- below the advisory guideline range
- above the advisory guideline range

#### B Departure based on (Check all that apply.):

- 1 **Plea Agreement** (Check all that apply and check reason(s) below.):
  - 5K1.1 plea agreement based on the defendant's substantial assistance
  - 5K3.1 plea agreement based on Early Disposition or "Fast-track" Program
  - binding plea agreement for departure accepted by the court
  - plea agreement for departure, which the court finds to be reasonable
  - plea agreement that states that the government will not oppose a defense departure motion.
- 2 **Motion Not Addressed in a Plea Agreement** (Check all that apply and check reason(s) below.):
  - 5K1.1 government motion based on the defendant's substantial assistance
  - 5K3.1 government motion based on Early Disposition or "Fast-track" program
  - government motion for departure
  - defense motion for departure to which the government did not object
  - defense motion for departure to which the government objected
- 3 **Other**
  - Other than a plea agreement or motion by the parties for departure (Check reason(s) below.):

#### C Reason(s) for Departure (Check all that apply other than 5K1.1 or 5K3.1.):

<input type="checkbox"/> 4A1.3 Criminal History Inadequacy	<input type="checkbox"/> 5K2.1 Death	<input type="checkbox"/> 5K2.11 Lesser Harm
<input type="checkbox"/> SH1.1 Age	<input type="checkbox"/> 5K2.2 Physical Injury	<input type="checkbox"/> 5K2.12 Coercion and Duress
<input type="checkbox"/> SH1.2 Education and Vocational Skills	<input type="checkbox"/> 5K2.3 Extreme Psychological Injury	<input type="checkbox"/> 5K2.13 Diminished Capacity
<input type="checkbox"/> SH1.3 Mental and Emotional Condition	<input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint	<input type="checkbox"/> 5K2.14 Public Welfare
<input type="checkbox"/> SH1.4 Physical Condition	<input type="checkbox"/> 5K2.5 Property Damage or Loss	<input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense
<input type="checkbox"/> SH1.5 Employment Record	<input type="checkbox"/> 5K2.6 Weapon or Dangerous Weapon	<input type="checkbox"/> 5K2.17 High-Capacity, Semiautomatic Weapon
<input type="checkbox"/> SH1.6 Family Ties and Responsibilities	<input type="checkbox"/> 5K2.7 Disruption of Government Function	<input type="checkbox"/> 5K2.18 Violent Street Gang
<input type="checkbox"/> SH1.11 Military Record, Charitable Service, Good Works	<input type="checkbox"/> 5K2.8 Extreme Conduct	<input type="checkbox"/> 5K2.20 Aberrant Behavior
<input type="checkbox"/> SK2.0 Aggravating or Mitigating Circumstances	<input type="checkbox"/> 5K2.9 Criminal Purpose	<input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct
	<input type="checkbox"/> 5K2.10 Victim's Conduct	<input type="checkbox"/> 5K2.22 Age or Health of Sex Offenders
		<input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment
		<input type="checkbox"/> Other guideline basis (e.g., 2B1.1 commentary)

#### D Explain the facts justifying the departure. (Use Section VIII if necessary.)

DEFENDANT: **COREY SMITH**

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CASE NUMBER: **1: 04 CR 10111 - 003 - MEL**  
DISTRICT: **MASSACHUSETTS**

## **STATEMENT OF REASONS**

### **VI COURT DETERMINATION FOR SENTENCE OUTSIDE THE ADVISORY GUIDELINE SYSTEM**

(Check all that apply.)

**A The sentence imposed is** (Check only one.):

below the advisory guideline range  
 above the advisory guideline range

**B Sentence imposed pursuant to** (Check all that apply.):

**1 Plea Agreement** (Check all that apply and check reason(s) below.):

binding plea agreement for a sentence outside the advisory guideline system accepted by the court  
 plea agreement for a sentence outside the advisory guideline system, which the court finds to be reasonable  
 plea agreement that states that the government will not oppose a defense motion to the court to sentence outside the advisory guideline system

**2 Motion Not Addressed in a Plea Agreement** (Check all that apply and check reason(s) below.):

government motion for a sentence outside of the advisory guideline system  
 defense motion for a sentence outside of the advisory guideline system to which the government did not object  
 defense motion for a sentence outside of the advisory guideline system to which the government objected

**3 Other**

Other than a plea agreement or motion by the parties for a sentence outside of the advisory guideline system (Check reason(s) below.):

**C Reason(s) for Sentence Outside the Advisory Guideline System** (Check all that apply.)

the nature and circumstances of the offense and the history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1)  
 to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense (18 U.S.C. § 3553(a)(2)(A))  
 to afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))  
 to protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))  
 to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(D))  
 to avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6))  
 to provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))

**D Explain the facts justifying a sentence outside the advisory guideline system.** (Use Section VIII if necessary.)

DEFENDANT: **COREY SMITH**  
CASE NUMBER: **1: 04 CR 10111 - 003 - MEL**  
DISTRICT: **MASSACHUSETTS**

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## STATEMENT OF REASONS

### VII COURT DETERMINATIONS OF RESTITUTION

A  Restitution Not Applicable.

B Total Amount of Restitution: \_\_\_\_\_

C Restitution not ordered (Check only one):

- 1  For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
- 2  For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
- 3  For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
- 4  Restitution is not ordered for other reasons. (Explain.)

D  Partial restitution is ordered for these reasons (18 U.S.C. § 3553(c)):

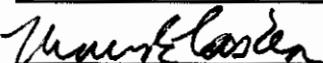
### VIII ADDITIONAL FACTS JUSTIFYING THE SENTENCE IN THIS CASE (If applicable.)

Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony cases.

Defendant's Soc. Sec. No.: 000-00-3848

Date of Imposition of Judgment  
10/19/06

Defendant's Date of Birth: 00/0082

  
Signature of Judge  
The Honorable Morris E. Lasker Senior Judge, U.S. District Co

Defendant's Residence Address: 81 Moreland St., #2  
Roxbury, MA 02119

Name and Title of Judge  
Date Signed 10/24/06 /

Defendant's Mailing Address:  
FCI Ray Brook,  
P. O. Box 9001  
Ray Brook, NY 12977

1                   THE COURT: Okay. Thank you. Do you want to  
2 remain standing? Mr. Smith, the people in this room  
3 have been through a lot with regard to the sentencing in  
4 your case. This happens to be the -- I've been a judge  
5 for 38 years; this is the first time I've ever been  
6 reversed with regard to a sentence. And I believe that  
7 the original sentence was appropriate, but the Court of  
8 Appeals gave very strong reasons -- and I have a lot of  
9 respect for them, particularly for Judge Boudin who  
10 wrote the opinion -- as to why he thought that this had  
11 to be reviewed and perhaps altered.

12                  I have read the opinion of the Court of Appeals  
13 with sustained interest; I've given a lot of thought to  
14 the arguments made by counsel today and which have been  
15 reflected in their papers; I've reread the presentence  
16 report here, and I'm ready to go ahead.

17                  We all agree as to what the guidelines might be.  
18 We know that it might be 100 to 125 months. The  
19 question for me is not whether the guidelines control --  
20 we know they don't control literally anymore, or  
21 legally. They are, however, advisory. I continue to  
22 believe that the guideline sentence is excessive, and  
23 I'm bound to determine what I think is a fair and  
24 appropriate sentence under Section 3663(a) of the  
25 criminal law -- or 3553, I mean. And bearing those

1 things in mind in considering the following factors, I'm  
2 prepared to sentence.

3 Against you is the nature of the offense  
4 aggravated by selling of a controlled substance  
5 regularly and in a location close to a school. You  
6 committed a number of minor offenses between the ages of  
7 16 and 21, for most of which you were given probation or  
8 a suspended sentence, but for others you were given a  
9 sentence of 10 days and 90 days. So there was some  
10 substance to those.

11 In your favor is the fact that you were involved  
12 in the offense for a limited duration of time and did  
13 not appear to me to be a leader. While on pretrial  
14 release I'm satisfied that you did participate in a  
15 substance abuse program, and for the most part -- and  
16 that's all I'm saying -- received positive reports.  
17 During your pretrial release you obtained employment,  
18 and I'm very pleased to have noticed that during your  
19 present period of incarceration you've received a high  
20 school equivalency diploma and a certificate of  
21 participation for successfully graduating from a drug  
22 treatment program.

23 Bearing those things in mind, under Section  
24 3553, and that the probation department recommends in  
25 Mr. Smith's case a sentence of 60 months would be

1 "sufficiently punitive given the circumstances of the  
2 crime and the characteristics of the defendant," and  
3 that he does not appear to have been a leader in the  
4 offense, that the offense was for a limited duration and  
5 that he, quote -- and I'm quoting the presentence  
6 report -- "was simply a kid peddling a small amount of  
7 drugs as was everyone else in his neighborhood," it is  
8 the judgment of the Court that the defendant, Corey  
9 Smith, is hereby committed to the custody of the Bureau  
10 of Prisons to be imprisoned for a term of 60 months.  
11 This term consists of a term of 60 months on each count  
12 to be served concurrently.

13 I've got to go through this routine and read it  
14 all to you again.

15 The Court makes a judicial recommendation that  
16 the defendant participate in the 500-hour comprehensive  
17 drug treatment program, which I understand you are  
18 already doing. Upon release from imprisonment, you  
19 shall be placed on supervised release for a term of six  
20 years. This term consists of a term of six years on  
21 each count, all such terms to run concurrently.

22 Within 72 hours of release from custody of the  
23 Bureau of Prisons, you shall report in person to the  
24 district to which you've been released. While on  
25 supervised release you shall not commit another crime;

1 you shall refrain from any unlawful use of a controlled  
2 substance; you shall submit to one drug test within  
3 15 days of release from imprisonment, and at least two  
4 periodic drug tests thereafter, not to exceed 104 tests  
5 per year as directed by the probation officer; you shall  
6 submit to the collection of a DNA sample as directed by  
7 the probation officer. In addition, you shall comply  
8 with the standard conditions that are described in the  
9 United States Sentencing Guidelines and shall comply  
10 with the following special conditions:

11 You're prohibited from possessing a firearm or  
12 other dangerous weapon; you shall participate in a  
13 program for substance abuse as directed by the probation  
14 office, which program may include testing not to exceed  
15 104 drug tests per year to determine whether you've  
16 reverted to the use of alcohol or drugs; you'll be  
17 required to contribute to the cost of services for such  
18 treatment based on your ability to pay or the  
19 availability of third-party payments; and finally, it is  
20 further ordered that you shall pay the United States a  
21 special assessment, if you haven't already done it --

22 THE DEFENDANT: I have.

23 THE COURT: -- of \$700, which shall be due  
24 immediately.

25 (Conclusion of excerpt.)